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Federal Communications Commission  
Office of Secretary

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of )  
)  
Telefónica Larga Distancia )  
de Puerto Rico, Inc. )  
)  
Petition for Expedited Declaratory Ruling )  
Regarding Section 253 of the )  
Communications Act of 1934, as amended )

WCB Docket No. 06-1

**MOTION FOR VOLUNTARY DISMISSAL OF PETITION FOR EXPEDITED  
DECLARATORY RULING UNDER SECTION 253 OF THE  
COMMUNICATIONS ACT, AS AMENDED**

Telefónica Larga Distancia de Puerto Rico, Inc. ("TLD"), by its attorneys, for the reasons specified below, herein moves the Commission for a voluntary dismissal without prejudice of the Petition for Declaratory Ruling Regarding Section 253 of the Communications Act of 1934, as amended, filed by TLD on December 20, 2005, in the above-captioned matter (the "Petition").<sup>1</sup> The Petition seeks a Commission ruling that approval by the Puerto Rico Telecommunications Regulatory Board (the "PRTRB") of a plan by the Puerto Rico Telephone Company ("PRTC") to make mandatory for its local exchange service subscribers an island-wide local calling zone would be a violation of Section 253(a) of the Communications Act of 1934, as amended (the "Act").<sup>2</sup>

The Petition had been prompted by the fact that PRTC had tariffed such a plan in the form of the so-called "Single Zone Plan" and that it was the subject of an ongoing adjudicatory proceeding before the TRBPR.<sup>3</sup> As noted by TLD, a mandatory island-wide

<sup>1</sup> Federal Communications Commission Public Notice, DA 06-32, (released January 6, 2006).

<sup>2</sup> 47 USC Section 253(a).

<sup>3</sup> The TRBPR is an agency of the government of Puerto Rico whose members are appointed by the governor of Puerto Rico. The government of Puerto Rico also owns 28% of PRTC.

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local calling zone such as the Single Zone Plan was particularly problematic insofar as Section 253(a) was concerned because PRTC had an effective monopoly with respect to residential local exchange service in Puerto Rico and by making its island-wide service mandatory, an approval by the TRBPR would eliminate the entire intra-island long distance service market in Puerto Rico in which TLD and others are competitors.

On February 2, 2006, approximately ten months after filing its Single Zone Plan with the TRBPR, PRTC withdrew its tariff revisions and asked the TRPRB to close the proceeding. PRTC's public reasoning for such action was that the process of implementing the Single Zone Plan was taking longer and had become more complex than it had anticipated. The proceeding before the TRBPR was lengthy, costly and contentious, and TLD along with other complainants raised many issues concerning the lack of competition in the Puerto Rico telecommunications markets today as well as the aggravating effect on competition and consumers of the Single Zone Plan.

On February 17, 2006, TLD filed with the TRBPR a "Motion Regarding Puerto Rico Telephone Company, Inc.'s Withdrawal of the Proposed Single Zone Plan and PRTC's Motion to Dismiss" ("February 17, 2006 Motion") in which TLD requested that the TRBPR condition its closure of the proceedings in several ways. One such way was that the TRBPR rule on fully pleaded legal issues concerning the lawfulness of a service offering that eliminated a competitive telecommunications service market. TLD also asked the TRBPR to instruct PRTC not to make a new tariff filing or filings that included or had the same effect as a mandatory island-wide service offering which forces their captive residential local exchange service subscribers to also use PRTC for intra-island long distance service. The record of that proceeding establishes that such a service plan

not only eliminates the competitive intra-island long distance market, but also deprives consumers of the ability to select their preferred intra-island long distance service providers and their ability to subscribe only to local exchange service.

The TRBPR refused to attach any conditions to the closure of the proceeding and denied TLD's February 17, 2006, Motion. In short, the TRBPR presided over a costly and contentious ten-month proceeding, which included comprehensive fact-finding demonstrating the lack of local telecommunications competition in Puerto Rico and the draconian effect on existing intra-island long distance service competition of a mandatory island-wide calling zone, it permitted PRTC to unilaterally withdraw the subject tariff due to PRTC's own self-interested administrative reasons and closed the proceeding without making any substantive rulings or providing any guidance whatsoever. Among other things, TLD remains concerned that such an obvious violation of Section 253(a) as would be a mandatory island-wide calling zone in Puerto Rico, could be re-filed in its original form or a variant thereof. Indeed, PRTC has made public expressions that it will be making a new tariff filing and has already started making revisions (*i.e.*, establishing minimums for combined local and intra-island long distance service usage and changing the method of measuring usage from units to minutes) which in the aggregate may have the same impact on competition that its so-called Single Zone Plan would have had.

This concern has become more serious in light of the public announcement last month that the monopoly local exchange carrier in Mexico, Telefonos de Mexico CV, and its dominant wireless affiliate, America Movil, (collectively "Telmex") have entered into an agreement to acquire Verizon Communications, Inc.'s 52 percent controlling interest in PRTC. The TRBPR's refusal to condition in any way the dismissal of the

Single Zone Plan case leaves a Telmex-controlled PRTC with significant incentives to perpetuate and abuse the lack of local telecommunications competition in Puerto Rico and to eliminate the intra-island long distance service market.

TLD submits that the foregoing concerns and the continued monopoly at the residential local exchange level in Puerto Rico ten years after enactment of the Telecommunications Act of 1996, as discussed in the pleadings filed in this matter, should weigh heavily on the Commission in addressing Puerto Rico telecommunications issues in the future. Nonetheless, for purposes of the instant matter, since the Single Zone Plan is not currently before the TRPRB and the Single Zone Plan was the particular proposal put before the Commission in the Petition, TLD reluctantly moves the Commission for the voluntary dismissal of its Petition without prejudice.

Respectfully submitted,

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May 2, 2006

## CERTIFICATE OF SERVICE

I hereby certify that I have on this 2nd day of May 2006 served a copy of the foregoing Motion for Voluntary Dismissal of Petition for Declaratory Ruling Regarding Section 253 of the Communications Act of 1934, as amended, on the following persons by first-class mail, unless otherwise noted:

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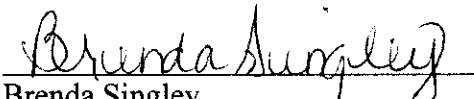
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